

1 and another letter would only create customer
2 confusion and delay in our ability to
3 restructure. The customer notification has
4 informed customers of the proposed withdraw by
5 applicant. Business Options does not intend to
6 sell its customers' list to any long distance
7 provider, but will allow the customer to select a
8 new service provider of their own preference.

9 Business Options also has provided
10 customers with its toll-free customer assistance
11 number for purposes of addressing any questions
12 or concerns that may arise during the withdraw
13 transition period."

14 Q. Thank you. Will you read paragraph
15 eight from the Cable and Wireless application.

16 A. "Cable and Wireless has developed a
17 comprehensive three-step customer notification
18 plan that will ensure a seamless transition for
19 the current local resale customers. The initial
20 customer notice letter has been sent to customers
21 concurrently with this filing and is attached as

1 Exhibit A.

2 Customer notification will inform
3 customers of the proposed withdrawal by
4 applicant. Cable and Wireless does not intend to
5 sell its customers list to any particular local
6 service provider, but will allow the customer to
7 select a new service provider of their own
8 preference. Cable and Wireless also will provide
9 customers with its toll-free customer assistance
10 number for purposes of addressing any questions
11 or concerns that may arise during the withdrawal
12 transition period."

13 Q. So with respect to Business Options
14 paragraph eight and Cable and Wireless paragraph
15 eight, the first sentences are substantially
16 similar, are they not?

17 A. Yes.

18 Q. But in Business Options paragraph
19 eight, you add some additional language about the
20 initial customer notice. And that's found in the
21 second, third and fourth sentences in the BOI

1 application; is that correct?

2 A. Yes.

3 Q. Is that language found at all in
4 paragraph eight of the Cable and Wireless
5 application?

6 A. No.

7 Q. Is that language found anywhere else,
8 to your knowledge, in the Cable and Wireless
9 application?

10 A. Yes.

11 Q. I'm sorry?

12 A. Stating that the cable company is a
13 non-dominant carrier is in paragraph two.

14 Q. Of the Cable and Wireless?

15 A. Correct.

16 Q. And did you take your statement that
17 Business Options is a nondominant carrier in
18 paragraph eight from paragraph two in the Cable
19 and Wireless application?

20 A. Yes, I did.

21 Q. Did you take anything else from the

1 second, third and fourth sentences of paragraph
2 eight from the Cable and Wireless application?

3 A. From paragraph eight, the plan.

4 Q. What plan is that?

5 A. I'm sorry, not the plan, but the
6 customer letter letting them know that the
7 attached notice letter, that's in the same
8 paragraph. I don't see anything else.

9 Q. Okay. Thank you. Where did you come
10 up with the sentence beginning, "The initial
11 customer notice"?

12 A. Say that again.

13 Q. The second sentence, "The initial
14 customer notice letter has been sent to customers
15 and is attached as Exhibit A, as we did not know
16 to send the letter out pursuant to 63.71." Did
17 you write that yourself?

18 A. Partially.

19 Q. What part of that did you write?

20 A. From talking to the FCC, I was told
21 to -- not told. They suggested that I mention

1 that I didn't know about the 63.71.

2 Q. Who --

3 A. I told them that I was unaware -- I
4 thought it was just Vermont regulations that we
5 had to go by and not both Vermont and Federal.

6 Q. You told this to either Mr. Mincoff or
7 Mr. Adams?

8 A. One of them, yes.

9 Q. And you were under the impression that
10 only Vermont regulations required you to provide
11 this notice?

12 A. The whole discontinuance -- the
13 withdraw, excuse me.

14 Q. Did you have an understanding as to
15 why you were making a filing with the Federal
16 Communications Commission on discontinuance?

17 A. I meant before that.

18 Q. Okay. And they were the ones who told
19 you to put in here that you didn't know anything
20 about 63.71?

21 A. No. I told them that I thought that

1 we had to just do the withdraw through Vermont
2 regulations. And they told me to put that in the
3 waiver and I put it in both.

4 Q. I don't see here where you talk about
5 you thought that, you know, I only had to comply
6 with Vermont regulations.

7 A. No. I didn't put that part in.

8 Q. What part did you put in?

9 A. We did not know of the FCC
10 requirements to send the letter out pursuant to
11 63.71.

12 Q. Is that an accurate statement?

13 A. For myself, yes.

14 (A short break was taken.)

15 Q. Before we broke, we were talking about
16 paragraph eight that you wrote in Business
17 Options application, correct?

18 A. Yes.

19 Q. In that same paragraph, you wrote,
20 "Our letter has all the information requested by
21 the State of Vermont." What was your

1 understanding of what was requested by the State
2 of Vermont?

3 A. Just what I had written in the letter,
4 the November 19th letter. And Shannon told me,
5 also.

6 Q. What you had written, meaning, the
7 Discontinuance Letter that you had drafted when
8 Shannon gave you the November 19th Vermont
9 letter; is that correct?

10 A. Correct.

11 Q. But you knew at the time that you
12 drafted this application, did you not, that the
13 letter you wrote, the Discontinuance Letter you
14 wrote to the Vermont customers, was not the
15 letter that ultimately went out?

16 A. Right.

17 Q. So what was -- I apologize if I'm
18 being circular. What was the -- what were you
19 referring to when you wrote this, "Our letter has
20 all the information requested by the State of
21 Vermont"?

1 A. When I wrote the Discontinuance Letter
2 and I gave it to Shannon, it was changed. And I
3 told her that it doesn't have the newly-drafted
4 one that was initially sent out. It did not have
5 as much information as mine did. And she told me
6 that the one that was sent from Vermont, was a
7 sample and it didn't have to be exactly the
8 same -- exactly the same as the sample letter, as
9 long as the information that was in there was
10 what they were asking for.

11 Q. Did you ever compare the letter that
12 Business Options sent out with the letter that
13 you first wrote?

14 A. Yes, I did.

15 Q. Did you agree with the -- strike that.
16 Did you think that the two letters
17 were substantially similar?

18 A. No. I liked mine better. Mine had
19 more information, is what I meant.

20 Q. Any other reasons why you liked it
21 better?

1 A. Because it -- it was a lot like the
2 sample that was sent, which I thought was what
3 they were looking for.

4 Q. It was a lot like the sample from the
5 State of Vermont?

6 A. Correct.

7 Q. Will you please read paragraph nine
8 into the record from the Business Options
9 application.

10 A. "Business Options has given its
11 customers 15 days from the day they received our
12 notification letter to choose another long
13 distance provider and protest our request for
14 discontinuance. Business Options has every
15 intent of assisting current customers in any way
16 we can to avoid any inconveniences that may occur
17 through this transition."

18 Q. And when had you wrote this, had you
19 already had the conversations with -- or
20 conversation with Mr. Mincoff or Mr. Adams about
21 what the Commission would require with respect to

1 timing for the Discontinuance Rule 63.71?

2 A. When I wrote that, no.

3 Q. You had not had that conversation?

4 A. No.

5 Q. How do you know that, you seem pretty
6 sure?

7 A. Because I wouldn't have written it if
8 I talked to them first. I probably would not
9 have put it in there at all.

10 Q. So another way of saying that is that
11 had known of the requirements of 63.71, you would
12 have not put that language in there about how you
13 had given 15 days?

14 A. Correct.

15 Q. Is it also fair to say that had you
16 known of the requirements of 63.71, you would not
17 have given the Vermont customers 15 days?

18 A. Correct.

19 Q. The Discontinuance Letter that went
20 out went out roughly two weeks before you wrote
21 Business Options' application?

1 A. Right.

2 MR. HAWA: I'm not sure I understood
3 that. What was the connection on that last
4 question that you drew?

5 MR. HARKRADER: The connection
6 between?

7 MR. SHOOK: The timing of the letter
8 that was sent to the Vermont customers and the
9 timing of the Discontinuance Application.

10 MR. HARKRADER: There is a two-week
11 span between when the letter went out.

12 MR. HAWA: 15 days roughly.

13 MR. HARKRADER: Right. And when she
14 wrote this application in which she said that "We
15 had given the 15 days," in paragraph nine.

16 MR. SHOOK: The other connection is
17 the timing of the Discontinuance Letter versus
18 the information in that letter as to when service
19 would actually be cut off. There's a date that
20 appears in the letter. What's not as clear,
21 because all the letters that we have are undated,

1 as to when it was that those letters actually
2 went out.

3 MR. HAWA: And it's also not clear how
4 much lead-in time is built in from the date that
5 Business Options would submit its disconnection
6 of 200-and-some-odd customers and how long it
7 takes to process it, which --

8 MR. SHOOK: That's a great unknown.

9 MR. HAWA: Again, with a time of
10 anywhere from 3 to 30 days to process.

11 BY MR. HARKRADER:

12 Q. Did you have any discussions with Mr.
13 Adams or Mr. Mincoff before you wrote Business
14 Options' 63.71 application concerning the
15 agreement between Business Options and Vermont
16 for Business Options to withdraw service in
17 Vermont?

18 A. No.

19 Q. So as far as you knew, they did not
20 know about the Vermont agreement between Business
21 Options and the State of Vermont?

1 A. I believe I assumed that they did
2 know.

3 Q. Did they ever mention to you that they
4 knew?

5 A. I don't remember.

6 Q. Were you concerned, when you drafted
7 this application, that had you include anything
8 about the Vermont stipulation that the
9 Commission -- the Federal Communications
10 Commission would have rejected your application?

11 A. No.

12 Q. You're not concerned at all?

13 A. If I put it in there?

14 Q. Correct.

15 A. No.

16 Q. Did anybody at Business Options review
17 this application after you wrote it?

18 A. Yes.

19 Q. Who was that?

20 A. Kurtis.

21 Q. Did he have any comments about your --

1 A. He made a few changes.

2 Q. Did you have an initial draft, a first
3 draft that you gave to him?

4 A. Yes.

5 Q. Do you still have a copy of that in
6 your files?

7 A. I think I do, but I'm not absolutely
8 sure.

9 MR. SHOOK: Is there a paper copy that
10 reflects whatever changes --

11 THE WITNESS: The changes he made,
12 right. I think there is. I'll double-check when
13 I get the draft of my Discontinuance Letter.

14 MR. HAWA: I'll get you a paper copy
15 reflecting the changes.

16 (Discussion held off the record.)

17 BY MR. HARKRADER:

18 Q. Do you have a copy of the application
19 in front of you?

20 A. Yes.

21 Q. Would you be able to give us an idea

1 of the changes that Kurtis made?

2 A. No.

3 Q. Did anybody else review it besides
4 Kurtis?

5 A. I believe Shannon Dennie did.

6 Q. Did she review it before or after
7 Kurtis reviewed it?

8 A. It would have been before.

9 Q. So you went up the chain of command?

10 A. Correct.

11 Q. Did she have any changes to your
12 draft?

13 A. No. I believe she gave it right to
14 Kurtis.

15 Q. Did she read it?

16 A. I believe so.

17 Q. Did you have any discussions with
18 Business Options about this draft -- about your
19 initial draft of the application?

20 A. It would have been only Shannon
21 Dennie.

1 Q. Did those conversations actually
2 happen or are you speculating that they probably
3 happened?

4 A. I'm speculating that if I did have, it
5 would have been with her.

6 Q. So sitting here today, you have no
7 memory of any conversations with Ms. Dennie about
8 the drafting of the application?

9 A. I'm sure I did, I just can't recall.
10 And if I could just say that when this happened,
11 I didn't really understand what exactly was going
12 on. And it was such a rush process, this has to
13 be done, that has to be done, that I don't think
14 I'm remembering like I should. I'm telling you
15 what I remember, but as far as specific dates,
16 it's hard to remember when you don't understand.
17 Which is why I was on the phone with the FCC
18 quite often.

19 Q. I'd like to show you a copy of the
20 request for waiver. That's Bate Stamped 08453.
21 Do you recognize that document?

1 A. Yes.

2 Q. Did you draft that document initially?

3 A. Yes.

4 Q. Did you file that document at the same
5 time as you filed the 63.71 application?

6 A. It was close. I don't recall.

7 Q. Do you have a memory that you filed --

8 A. It was soon after.

9 Q. I believe we have -- again, I'm not
10 trying to trick you. I believe we have file
11 stamped copies that show -- that one doesn't. I
12 believe that we do have copies that those were
13 filed on the same date, if that helps you. Did
14 you draft this request for waiver on your own?

15 A. No.

16 Q. How did you draft it?

17 A. I received a sample from the FCC.

18 Q. I'm going to hand you a fax from John
19 Mincoff to you dated December 19th, 2002. And it
20 is not Bate Stamped, but I want you to look at
21 that and see if that's what the FCC sent to you.

1 (Witness Reviewing Document.)

2 A. Yes.

3 Q. And did you base your request for
4 waiver on that filing?

5 A. Yes, I did.

6 Q. And I believe if my memory is still
7 holding, that's an Alma (phonetic) telephone
8 filing?

9 A. Correct.

10 Q. Whose idea was it to file the waiver?

11 A. The FCC.

12 Q. Mr. Mincoff or Mr. Adams?

13 A. Uh-huh.

14 Q. I assume it was Mr. Mincoff or Mr.
15 Adams, do you remember which one told you?

16 A. I believe it was Adams, but I'm not
17 positive.

18 Q. Did you seem to have contact with one
19 more than the other or were they somewhat
20 interchangeable?

21 A. They were pretty much even.

1 Q. And they had the same first names,
2 too.

3 A. Yes. Which is hard to remember who I
4 talked to about what.

5 Q. Do you remember when either Mr. Adams
6 or Mr. Mincoff suggested that you file a waiver?

7 A. Not exactly.

8 Q. I'm going to show you a fax cover
9 sheet from you to Mr. Adams that's Bate Stamped
10 08079, I believe; is that correct? Will you read
11 what you wrote to Mr. Adams.

12 A. "This is a notice I sent out to
13 Vermont customers. I am waiting on John Mincoff
14 to send me a sample waiver. Please look over the
15 notice and let me know what you think." So then
16 it was Mincoff I talked to. It was Adams that I
17 asked if it was approved or not.

18 Q. If what was approved?

19 A. The waiver.

20 Q. Okay. Does that refresh your
21 recollection as to the date when you talked to

1 them about the waiver?

2 A. Correct, yes.

3 Q. So I assume it was before then, before
4 the 18th when you discussed the waiver with Mr.
5 Mincoff?

6 A. It must have been.

7 Q. Who reviewed the waiver at Business
8 Options before you sent it?

9 A. Shannon Dennie.

10 Q. Did she read it?

11 A. Yes.

12 Q. Did she have any comments or
13 suggestions?

14 A. Not that I recall.

15 Q. What did she do with it? Did she give
16 it back to you?

17 A. I believe so.

18 Q. Did you show it to Kurtis?

19 A. I don't recall. I don't recall or
20 not.

21 Q. Do you remember if you showed it to

1 Keanan?

2 A. No.

3 Q. Do you remember if you showed the
4 Section 63.71 to Keanan?

5 A. No, I did not.

6 Q. So it's your memory that the only
7 thing that Kurtis looked at was the actual
8 application. It's your memory sitting here today
9 that he did not look at the waiver?

10 A. I don't believe he did.

11 Q. After you filed the application and
12 the waiver request, did you have any
13 conversations with Mr. Adams or Mr. Mincoff?

14 A. About anything?

15 Q. About anything.

16 A. After I filed the waiver.

17 Q. I'm going on the assumption that you
18 filed the application and the waiver at the same
19 time just because of the date stamps that we
20 have. So I'm assuming that they came to the FCC
21 at the same time. So after that time, did you

1 have any conversations with Mr. Mincoff or Mr.
2 Adams?

3 A. Yes.

4 Q. And do you remember whom?

5 A. I believe it was Adams. And I asked
6 if our waiver was approved.

7 Q. And what was his response?

8 A. He said no.

9 Q. Did he give you a reason?

10 A. I don't remember. But I remember him
11 being not very nice, which I thought was odd
12 because they were very nice when I was asking for
13 assistance with the other things.

14 Q. Was that the last time you spoke to
15 either one of them?

16 A. I believe so.

17 Q. Do you remember how soon that was
18 after you filed the application of waiver?

19 A. I believe it was at least a week
20 later.

21 Q. I'm going to show you a copy of a

1 letter from the State of Vermont that's address
2 to you and Ms. Dennie. Could you read the Bate
3 Stamp into the record, please.

4 A. 08168.

5 Q. Do you remember receiving that letter?

6 A. Yes.

7 Q. Did you have any discussions with Ms.
8 Dennie about this letter?

9 MR. HAWA: Before we go there, could
10 we -- it was New Year's Eve. You might want to
11 clarify if people were in the office and when did
12 they receive it.

13 MR. HARKRADER: I'll -- we'll get to
14 when they received it.

15 BY MR. HARKRADER:

16 Q. Did you have any discussions with Ms.
17 Dennie about this letter?

18 A. I'm sure I did.

19 Q. When did you receive this letter?

20 A. Probably the beginning of January, the
21 second week in January.

1 Q. The second week in January. Why is
2 that?

3 A. The week before and the week after
4 Christmas were optional for employees.

5 Q. And your memory is that you did not
6 take that option and come to work?

7 A. No. I did come into work, but I don't
8 remember seeing this right around that time.

9 Q. So the weeks --

10 A. And this would have gone in Shannon
11 Dennie's box. More than likely her box and not
12 mine because she's my senior.

13 Q. So the week before New Year's and the
14 week after New Year's were optional?

15 A. Yes.

16 Q. And am I to understand from that that
17 Ms. Dennie was not in those two weeks?

18 A. I don't recall exactly when she came
19 in.

20 Q. But you have a good memory that you
21 did not receive this until the second week of

1 January?

2 A. No. I said I was guessing that it was
3 the second week in January because we had the
4 week before and the week after Christmas off.
5 And I wasn't there every day. And it would have
6 gone in Shannon's box. And I did not see it
7 right away. Shannon responded to this letter, by
8 the way. It was not me.

9 Q. When did you have your first
10 discussion with Ms. Dennie about this letter?

11 A. I don't recall exactly.

12 Q. Do you remember if you were tasked
13 with anything to do to respond to this letter?

14 A. No, I was not.

15 Q. Not at all?

16 A. No.

17 Q. Was it your understanding that Ms.
18 Dennie was handling everything with the response
19 to this letter?

20 A. Yes.

21 Q. I'm showing you a January 3rd letter